

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE**FIRST GENERAL COUNSEL'S REPORT**

AUDIT REFERRAL: 02-16
DATE ACTIVATED: December 18, 2002

EXPIRATION OF STATUTE OF
LIMITATIONS:
January 23, 2004-January 5, 2006¹
STAFF MEMBER: Michelle E. Abellera

SOURCE: AUDIT REFERRAL

RESPONDENTS: Paul Williams for Congress and
Michael Mundy, as Treasurer

**RELEVANT STATUTES
AND REGULATIONS:** 2 U.S.C. § 431(13)
2 U.S.C. § 432(h)
2 U.S.C. § 432(i)
2 U.S.C. § 434(a)
2 U.S.C. § 434(b)
2 U.S.C. § 439(a)
11 C.F.R. § 102.9
11 C.F.R. §§ 102.10-102.11
11 C.F.R. §§ 103.1-103.2
11 C.F.R. § 103.3(a)
11 C.F.R. § 104.3
11 C.F.R. § 104.7
11 C.F.R. § 104.11
11 C.F.R. § 104.14(b)
11 C.F.R. § 113.1(g)

INTERNAL REPORTS CHECKED: Audit Documents
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

¹ The statute of limitations for the failure to maintain records violation ranges from January 23, 2004 to June 12, 2005; excess cash disbursements from June 7, 2005 to December 28, 2005, failure to disclose receipts and disbursements violation from November 18, 2004 to November 10, 2005, misstatement of financial activity from January 1, 2004 to December 31, 2005, and personal use of excess campaign funds from November 9, 2005 to January 5, 2006.

I. GENERATION OF MATTER

The Commission audited Paul Williams for Congress ("PWFC" and "the Committee") pursuant to 2 U.S.C. § 438(b). The Audit Division referred this matter to the Office of General Counsel on December 18, 2002. *See* Attachment 1. We examined the Audit Referral, and based on the findings in the referral, we believe that the Commission should pursue this matter against the Committee.

II. FACTUAL AND LEGAL ANALYSIS

The Audit Referral primarily involves reporting and recordkeeping violations arising from PWFC's failure to maintain records. According to PWFC, campaign records were boxed and left in the campaign office at the close of the election. Attachment 2 at 2. Shortly thereafter, PWFC's landlord requested that PWFC remove all materials from the landlord's building. *See* Attachment 3 at 2. When PWFC did not comply, the landlord discarded all campaign materials, including PWFC's financial records. *Id.* PWFC asserts that the lack of records makes it extremely difficult to reconstruct most of the itemized receipts and expenses. Attachment 4. Furthermore, PWFC states that it is either onerous or impossible to comply with any of the Audit Report's recommendations that PWFC provide supporting documentation and/or file amended reports. *Id.*

PWFC's alleged inability to reconstruct its records does not relieve the Committee of its statutory and regulatory recordkeeping requirements. PWFC's failure to respond to the landlord's request to remove campaign materials may be construed as abandonment of property.² However, PWFC is ultimately responsible for maintaining its campaign records. 2 U.S.C.

² "A landlord may remove and store any property of a tenant that remains on premises that are abandoned...The landlord may dispose of the stored property if the tenant does not claim the property within 60 days after the date the property is stored" Tex Prop Code § 93 002(e)

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1 §§ 432(c)-(d) and 434. Based on the Audit Referral, this Office recommends the Commission
2 find reason to believe that Paul Williams for Congress and Michael Mundy, as treasurer, violated
3 the Federal Election Campaign Act of 1971, as amended ("the Act"), and the Commission's
4 regulations, as indicated in the chart at Appendix A.

5 The Office of General Counsel recommends that the Commission enter into pre-probable
6 cause conciliation with the Committee.

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15 **III. RECOMMENDATIONS**

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18 2. Find reason to believe that Paul Williams for Congress and Michael Mundy, as
19 treasurer, failed to maintain records in violation of 2 U.S.C. § 434(a) and
20 11 C.F.R. §§ 104.14(b)(1)-(3) and 102.9(c).
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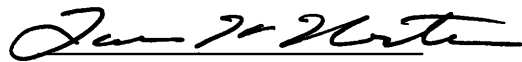
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3. Find reason to believe that Paul Williams for Congress and Michael Mundy, as treasurer, failed to disclose contributions and exercise best efforts to obtain contributor information in violation of 2 U.S.C. § 434(b)(3)(A) and 11 C.F.R. §§ 104.3(a)(4) and 104.7(a)-(b).
4. Find reason to believe that Paul Williams for Congress and Michael Mundy, as treasurer, failed to disclose and continually report outstanding debts and obligations in violation of 11 C.F.R. §§ 104.3 and 104.11.
5. Find reason to believe that Paul Williams for Congress and Michael Mundy, as treasurer, failed to disclose operating expenditures in violation of 2 U.S.C. § 434(b)(5)(A); and failed to keep records and failed to report and itemize disbursements in violation of 2 U.S.C. § 432(i) and 11 C.F.R. §§ 102.10 and 104.3(b)(4).
6. Find reason to believe that Paul Williams for Congress and Michael Mundy, as treasurer, made excess cash disbursements in violation of 2 U.S.C. § 432(h) and 11 C.F.R. § 102.11.
7. Find reason to believe that Paul Williams for Congress and Michael Mundy, as treasurer, used campaign funds for personal use in violation of 2 U.S.C. § 439(a) and 11 C.F.R. § 113.1(g).
8. Find reason to believe that Paul Williams for Congress and Michael Mundy, as treasurer, misstated financial activity in violation of 2 U.S.C. §§ 434(b)(1), 434(b)(2) and 434(b)(4).
9. Find reason to believe that Paul Williams for Congress and Michael Mundy, as treasurer, failed to deposit receipts into campaign depositories, made disbursements from unregistered campaign depositories and failed to properly report campaign depositories in violation of 2 U.S.C. § 432(h) and 11 C.F.R. §§ 103.1 and 103.3(a).
10. Approve the attached Factual and Legal Analysis for Paul Williams for Congress.
11. Enter into conciliation with Paul Williams for Congress prior to a finding of probable cause to believe.
12. Approve the attached Conciliation Agreement.
13. Approve the appropriate letter.

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Date

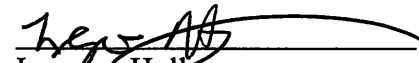
3/25/03



Lawrence H. Norton
General Counsel



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Attachments:

1. Audit Referral Materials
2. Letter from Michael Mundy, dated November 30, 2001
3. Letter from Greg Collins, dated March 11, 2002
4. PWFC Response to Interim Audit Report
5. Factual and Legal Analysis
6. Conciliation Agreement

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Appendix A

Audit Referral Finding	Violation
Failure to Maintain Records (II.A.) ¹	2 U.S.C. §§ 434(a) and 432(h)(1) 11 C.F.R. §§ 102.9(c), 103.1, 103.3(a) and 104.14(b)(1)-(3)
Disclosure of Contributions from Individuals (II.B.1.)	2 U.S.C. § 434(b)(3)(A) 11 C.F.R. §§ 104.3(a)(4) and 104.7(a)-(b)
Disclosure of Loan from Candidate (II.B.2.)	11 C.F.R. §§ 104.3 and 104.11
Disclosure of Disbursements (II.B.3.)	2 U.S.C. §§ 432(i) and 434(b)(5)(A) 11 C.F.R. §§ 102.10 and 104.3(b)(4)
Excess Disbursements of Cash (II.C.)	2 U.S.C. § 432(h) 11 C.F.R. § 102.11
Personal Use of Excess Campaign Funds (II.D.)	2 U.S.C. § 439(a) 11 C.F.R. § 113.1(g)
Misstatement of Financial Activity (II.E.)	2 U.S.C. §§ 434(b)(1), 434(b)(2) and 434(b)(4)
Failure to Deposit Receipts into, Make Disbursements from, and Disclose Campaign Depositories (II A.2.c.) ²	2 U.S.C. § 432(h) 11 C.F.R. §§ 103.1 and 103.3(a)

¹ The parenthetical reference corresponds to the section number in the Audit Referral

² According to the Audit staff, the Committee utilized an undisclosed campaign depository for numerous receipts and disbursements. Attachment I at 6. Therefore, this Office is also recommending the Commission find reason to believe Paul Williams for Congress and Michael Mundy, as treasurer, violated the Act and the regulations by failing to properly report campaign depositories, failing to deposit all receipts into campaign depositories and making disbursements from accounts at undesignated depositories.